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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,988	01/28/2004	Norbert Brun	1948-4835	5017
27123	7590	11/02/2005	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			CHOI, JACOB Y	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/766,988	BRUN ET AL.
	Examiner	Art Unit
	Jacob Y. Choi	2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 9/30/2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 15 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 11-14, & 16-23 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>June 05 & Aug. 04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 6/13/2005 was filed after the mailing date of the Election/Restrictions on 9/7/2005. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement, including IDS submitted on 8/16/2004, is being considered by the examiner.

Specification

2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Election/Restrictions

3. Claims 1-10 & 15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected subject matter, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 9/30/2005.

Claim Objections

4. Claim 13 is objected to because of the following informalities: the term "fibre" requires an appropriate correction.

Claim Rejections - 35 USC § 102

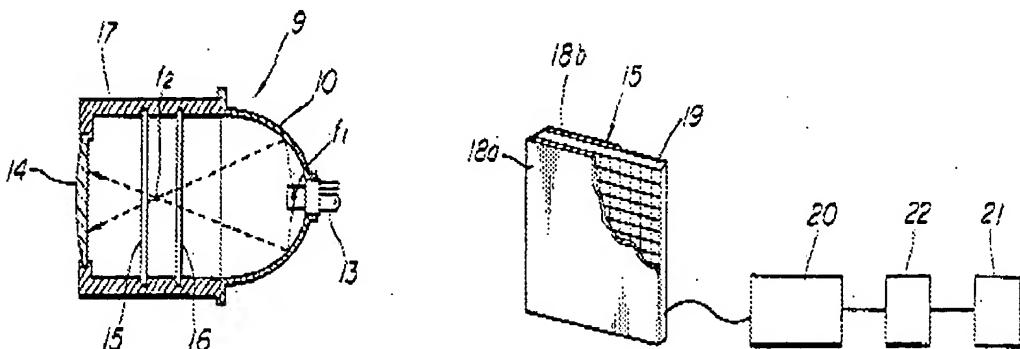
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 11, 12, 14, 16, 17, & 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Seko et al. (USPN 4,985,816).

Regarding claim 11, Seko et al. discloses a first light source (13) and a system for modulating the light therefrom (e.g., Figure 1), wherein the modulating system (17) comprises an imager (15; crystal matrix/LCD), a light guide (hollow inner structure within the reflector(s)), for transporting the light from the light source to the imager (15), and an electronic system (e.g., 20, 21, 22; Figure 2) for generating masks on the imager for blocking light.



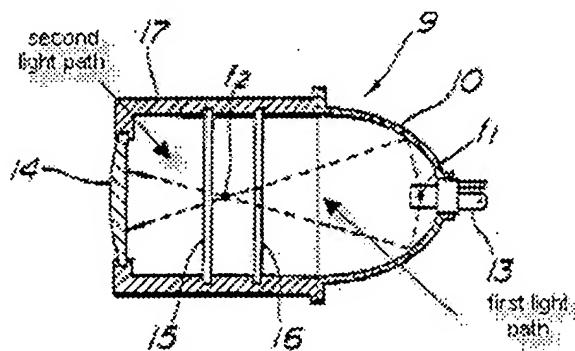
Note: claims in a pending application should be given their broadest reasonable interpretation. *In re Pearson*, 181 USPQ 641 (CPA 1974).

The term "light guide" is similarly defined as "optical waveguide" where any structure capable of guiding optical power. IEEE 100 The authoritative Dictionary of IEEE standards terms seventh edition

Regarding claim 12, Seko et al. discloses the imager (15) comprises a matrix of liquid crystal systems, which are electrically controllable (e.g., Figure 7B), or a matrix of lenses, the focal length of which is capable of being modulating by electrical control.

Note: it has been held that the recitation that an element is "capable of" performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Regarding claim 14, Seko et al. discloses the light guide comprises a first light path for guiding the light towards the imager, and a second light path for guiding the light towards an optic adapted for diffusing the light.



Regarding claim 16, Seko et al. discloses a second light source (e.g., left or right side headlight) independent of the first light source and provides main beam or cruising illumination.

Regarding claim 17, Seko et al. discloses the electronic system is controlled by a means (e.g., 23; Figure 6) for detecting objections/persons.

Regarding claim 20, Seko et al. discloses the optical path includes, upstream of the imager, means for making the distribution of the light in the imager homogeneous (e.g., Figures 3-5 or 16 or 27).

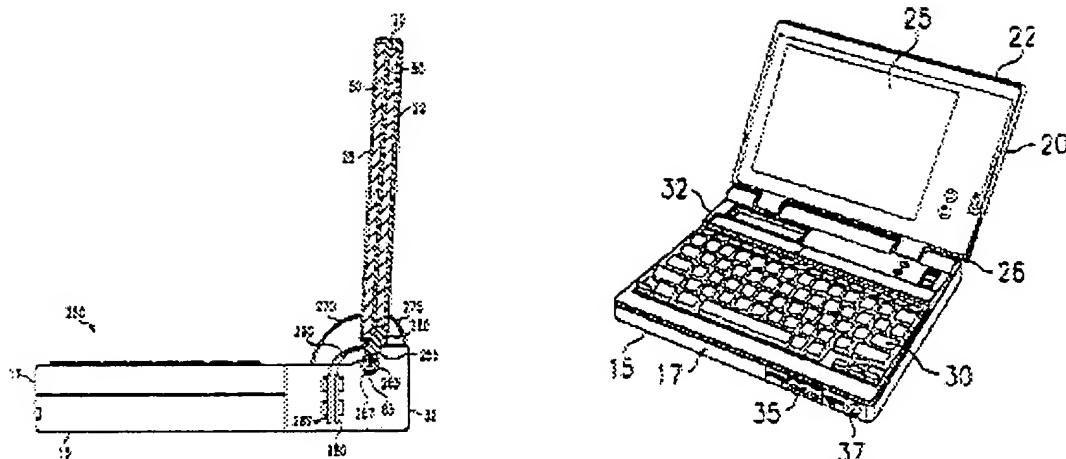
Regarding claim 21, Seko et al. discloses the means for making the light homogenous is a block or bar (e.g., 27) of quartz or glass.

Regarding claim 22, Seko et al. discloses a lens (14) for diffusing the light downstream of the imager.

Regarding claim 23, Seko et al. discloses the first light source is located in a housing (10) outside the modulating system (17).

7. Claims 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Malhi (USPN 5,844,733).

Regarding claim 11, Malhi discloses a first light source (e.g., 85) and a system for modulating the light therefrom, wherein the modulating system (20) comprises an imager (50; crystal matrix/LCD), a light guide (80), for transporting the light from the light source to the imager (50), and an electronic system (e.g., 115, 120, 125; Figure 4) for generating masks on the imager for blocking light.



Note: the recitation "a main beam headlight for a vehicle" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Regarding claim 12, Malhi discloses a matrix of liquid crystal systems which are electrically controllable.

Regarding claim 13, Malhi discloses the light guide comprises an optical fiber of large cross section.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 18 & 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seko et al. (USPN 4,985,816) in view of Smith et al. (USPN 6,281,806).

Regarding claims 18 & 19, Seko et al. discloses the claimed invention except for the specific types of camera being utilizing for detection means.

Smith et al. teaches driver road hazard warning and illumination system utilizing an infrared camera to detect object and also suggest that sensors of various types may be used in order to optimize the information obtained (e.g., column 2, lines 50-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify CCD camera of Seko et al. with other well-known camera to detect objections (e.g., person), where moving vehicle with running engine with headlights (or other objects including persons), may be detected also by thermal or infrared camera, since applicant has not disclosed that utilizing specific camera solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with CCD camera of Seko et al.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sekiguchi et al. (USPN 5,161,875) – head lamp for cornering operation

Strazzanti (USPN 6,491,416) – headlight masking method and apparatus

Remillard et al. (USPN 5,681,103) – electrostatic shutter particularly for an automotive headlamp

Remus et al. (USPN 5,289,352) – headlamp for motor vehicles

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Y. Choi whose telephone number is (571) 272-2367. The examiner can normally be reached on Monday-Friday (10:00-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JOHN ANTHONY WARD
PRIMARY EXAMINER

JC